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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/485,820 02/16/00 UEDA

N 9057694

HM12/0824  
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EXAMINER

LEVY, N.

ART UNIT

PAPER NUMBER

1616

DATE MAILED:

08/24/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

*Supplemental*  
**Office Action Summary**

09

Application No.

48820

Applicant(s)

UEDA et al

Examiner

NEC 607

Group Art Unit

1616

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—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

**Status**

- ☒ Responsive to communication(s) filed on 7/25/01
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

**Disposition of Claims**

- ☒ Claim(s) 1, 3-5, 7, 8, 11 & 12 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1, 3-5, 7, 8, 11 & 12 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

**Application Papers**

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119 (a)-(d)**

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
  - ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_
  - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

\*Certified copies not received: \_\_\_\_\_

**Attachment(s)**

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

**Office Action Summary**

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Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Receipt is acknowledged of amendment of 1/30/01.

The text of those sections of Title 35 U.S. Code not included in this action can be found in the prior Office action. This action replaces that of 8/02/01 and of 4/25/01.

Claims 1, 7, 8, 11 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 5-85901.

Clay and carbon particles, (powders) coated with water soluble polymers, PVA, are pesticidal formulations of a solid pesticide and water soluble polyalcohol fatty acid ester.

Applicant's arguments that fatty esters of JP are not those of applicants, is not well taken; the instant claim terminology would cover all. However, applicant points to 0011, wherein octyl alcohol--applicant's alkanol--is equivalently used. Examiner would appreciate copy of the full translation applicant refers to. It is not present in this case.

Claims 1, 7, 8, 11 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Hokko-JP 5078204.

The rejection of record is maintained solid pesticide enveloped in PVA, with polyalcohol fatty acid esters meets the instant claimed envelope formulations.

Again, we object to the instant claim language ad characterizing the instant invention. Trivalent alcohols are seen as including sorbitan monolaurate, which is also a hydroxy fatty acid ester and alkanol. The PVA is applicants material (p. 13, line 17).

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Claims 1, 3-5, 7, 8, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murakami et al 56929053 in view of JP 0819803.

Solid pesticidal formulations including solid pesticides (col. 1, line 40-line 30, col. 2) and ethylene glycol or glycerin (col. 3, lines 38-44) at up to 20% (col. 5, line 10-14) as powders of 30-200 micros (col. 4, top) or granules (lines 58-62, col. 4). The wall includes PVA (Example 1).

Here, too; the claim language of the instant invention is general; it is not the instant invention, but includes that of Murakami: comprising a hydroxy compound includes those compounds as a part of the microcapsule wall. In any event, glycerine, the preferred instant alcohol, is present at up to 20% (col. 5, lines 11-14). The formulations are (col. 4, line 60) of the instant powder form for aqueous dispersion, but not specifically put in a water soluble bag. However, it is well known to so package pesticidal formulations, as exemplified by references provided by applicant: JP 08119803.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made desiring to utilize insecticidal protection to use Murakami's insecticide with JP's container, in order to safely handle the formulation.

Claims 1, 3, 7, 8, 11 and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Levy 6001382.

A water soluble PVA pouch contains (col. 6, lines 28-36) powdered or granular pesticides (col. 8, lines 65-68) inclusive of solids (col. 9, lines 13-24, 38-54) coated with (col. 10, line 48-

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56) water soluble alkanols and hydroxy fatty acid esters, PVA (col. 14, lines 51-55) glycols. See examples 1, 2, 10 and col. 15, lines 56-58, col. 18, lines 7-12; col. 21, line 44-47.

In essence, applicant's arguments are that the instant claims provide an invention different from Levy's. See col. 38. Powdered compositions, no matter B.t. not the instant inventive chemical (those from line 10, p. 3 to line 1, p. 9 and so on); it meets the instant claim language; and if one wished to carry the formulation, a bag would be appropriate--Levy supplies one (lines 24, 25, col. 39).

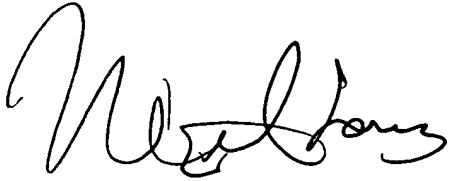
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neil Levy whose telephone number is (703) 308-2412. The examiner can normally be reached on Tuesday to Friday from 7:00 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jose Dees, can be reached on (703) 308-4628. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-4242.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

Levy:mv

August 17, 2001



**NEIL S. LEVY**  
**PRIMARY EXAMINER**